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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,822	02/06/2004	Lotfi Hedhli	IR 3699 NP	7965

31684 7590 06/20/2007
ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA, PA 19103-3222

EXAMINER

TUROCZY, DAVID P

ART UNIT	PAPER NUMBER
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1762

MAIL DATE	DELIVERY MODE
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06/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/773,822</p>	<p>Applicant(s) HEDHLI ET AL.</p>	
	<p>Examiner David Turocy</p>	<p>Art Unit 1762</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-9, 11-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Detailed Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/12/2007 with respect to Fukuda have been fully considered but they are not persuasive.

The applicants argue that Fukuda fails to disclose passing the reactant in a carrier gas directly between 2 or more electrodes which create an electrical discharge. However, the examiner disagrees, and notes Figure 2, where the reactant gas in a carrier gas passes directly between two electrodes (2 and 5), which create the electrical discharge.

The applicant argues that Fukuda that the reference fails to disclose the reactive gas and inert gas pass directly between 2 or more electrodes, stating the reference teaches the reactive gases do NOT DIRECTLY contact the electrodes, while the applicants claim the reactants pass DIRECTLY between the electrodes. In response to the examiner notes the applicant is not arguing commensurate in scope with the claims. Directly between and contacting are not equivalents and the applicant has failed to establish such a relationship in the original disclosure or in the instant claims.

Such is evidenced by the applicant's own disclosure; see at paragraph 0039, wherein the applicant coats one or all of the electrodes with a dielectric material. If directly contacting the directly between were in line with the applicants arguments, the dielectric material coating would prevent the reactive gas from coming into direct contact with the electrode and therefore fails to pass directly between the electrodes.

Art Unit: 1762

Therefore the applicants own specification teaches away from their line of reasoning and thus the arguments are deemed non persuasive.

The applicants argue against the Fukuda reference stating the reference teaches away from the instant invention, only discloses nitrogen as a secondary list, and stating that it is used in combination with noble gases not alone. The examiner disagrees with such allegations. The examiner is not contending that Fukuda teaches nitrogen is the preferred embodiment, and the examiner notes the examples use helium and argon; however, Fukuda teaches nitrogen is operable. Therefore, such a teaching is not a teaching away because Fukuda does not disclose nitrogen fails to work. The statement, "Nitrogen can be also use as the inert gas", does not teach that nitrogen has to be used in combination with the other inert gases, but teaches that the inert gas may be only nitrogen. As cited as pertinent art in the previous office action, JP 10-275698 teaches forming atmospheric plasma without using a rare gas to greatly reduce the consumption thereof. Therefore even if the applicants position were correct and Fukuda discloses a process with nitrogen in combination with a rare gas, JP 10-275698, motivates one to modify that method to use no rare gas to greatly reduce the consumption.

The applicant argues against the Hammerschmidt reference stating the reference discloses other various coating techniques and such techniques are different from the claimed technique. While the examiner agrees Hammerschmidt discloses varying techniques, it is clear that those techniques are not meant to be limited but only exemplary of possible techniques.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The applicant has argued against Hammerschmidt in view of Fukuda combined with Schutz, Yasumoto, Namaumi, Kamo, Haug, stating only what the tertiary reference fails to teach. Therefore, the examiner maintains that the obviousness of the rejection is based on the combination of the teachings and what those teachings suggest to one of ordinary skill in the art. The test of obviousness is not an express suggestion of the claimed invention in any or all references, but rather what the references taken collectively would suggest to those of ordinary skill in the art presumed to be familiar with them (*In re Rosselet*, 146 USPQ 183). Accordingly, the examiner is maintaining the rejection below.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP 10-275698 teaches forming atmospheric plasma without using a rare gas to greatly reduce the consumption thereof.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Turocy whose telephone number is (571) 272-2940. The examiner can normally be reached on Monday-Friday 8:30-6:00, No 2nd Friday.

Art Unit: 1762

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David Turocy/
AU 1762


FRED J. PARKER
PRIMARY EXAMINER